

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Application of:

Adam Bosworth, et al.

Application No.: 09/741,219

Filed: Dec. 19, 2000

Confirmation No.: 7676

For: CELL BASED DATA  
PROCESSING

Examiner: Vu, Tuan A.

Group Art Unit: 2193

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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**Introductory Comments

In the Final Office Action mailed Aug. 1, 2007, all pending claims of the above-captioned application were rejected. Applicants hereby appeal this decision of the Examiner to the Board of Patent Appeals and Interferences according to 35 U.S.C. § 134 and submit a Notice of Appeal in compliance with 37 C.F.R. § 41.31 contemporaneously with the present request. Prior to the filing of the Appeal Brief, Applicants respectfully request review of the legal and factual basis of the rejections in the above-captioned application in light of the remarks to follow.

### Status of Claims

Claims 1, 11 and 21 are objected to. Claims 1-24 stand rejected under 35 USC §112. Claims 1-6, 8-16, and 18-24 stand rejected under 35 USC §102(e). Claims 7 and 17 stand rejected under 35 USC §103(a).

### Remarks

In “Claim Objection,” item 2 on page 2 of the above-identified Final Office Action, claims 1, 11 and 21 have been objected for lacking a “deliberated definition” of the term “unnested” anywhere in the disclosure. And in “Claim Rejections – 35 USC § 112,” item 4 on page 6 of the above-identified Final Office Action, claims 1-24 have been rejected as failing to comply with the written description required by 35 U.S.C. § 112, first paragraph. The Examiner asserts that the feature “unnested with respect to each other” recited by independent claims 1, 11 and 21 lacks support from the disclosure. Applicants respectfully disagree. As described below and pointed out in prior responses, the originally-filed Specification includes at least one example of a Specification with two cells that are unnested *with respect to each other* (i.e., neither cell is within the other’s scope), where “the first data processing cell” has “a data dependency on the second data processing cell, and” is “specified in a manner to be analyzed before the second data processing cell.” Thus, the “unnested” element of claims 1, 11, and 21 is supported by the disclosure.

Claim 1 is representative and calls for “a method of computing comprising:

receiving at execution time, a data processing specification having a first and a second data processing cell specification, unnested with respect to each other, specifying a first and a second data processing cell respectively, with each data processing cell specification having a plurality of statements including a formula specifying an action or computation, the first data processing cell having a data dependency on the second data processing cell, and specified in a manner to be analyzed before the second data processing cell;

analyzing in real time, the first and then the second data processing cell specification to determine execution order of said actions/computations specified by said first data processing cell specifications, based at least in part on interaction or computation references between said actions or computations specified; and

effectuating the data processing specified by the data processing specification in accordance with the determined execution order of said actions/computations specified by said first and second data processing cell specifications.”

Thus, claim 1 teaches a method of receiving first and second cell specifications, wherein the specifications are 1) unnested with respect to each other, and 2) wherein the first data processing cell has a data dependency on the second data processing cell, and is specified in a manner to be analyzed before the second data processing cell. While the Examiner finds ample support for 2) in the original disclosure, the Examiner continues to object to and reject claim 1 on the ground that the original disclosure does not support 1).

In response to the Examiner's objections and rejections, Applicants have pointed to the exemplary Specification on page 7. In this example, cell specifications such as "calculate", "action", "setup" and "init" are located at the same level in the structure, are out of the scope of each other, and thus are "unnested *with respect to each other*" (emphasis added). Applicants note that these cells are nested under a common parent, and thus are not "absolutely unnested" (to borrow the Examiner's terminology from an earlier Action), but are unnested with respect to each other, as is claimed by claim 1. Further, a first of these exemplary cells, "calculate", has a data dependency on a second, "action" ("`<x:xcell name='calculate' uses='$action $setup'>`", page 7, line 17), but is specified in a manner to be analyzed before the second (i.e., the first is specified before the second in the document. As illustrated in Figure 2 and described on page 14, cells are analyzed in the order they are specified). Therefore, Applicants respectfully submit that the definition of "unnested" relationship is not only clearly defined and but explicitly disclosed in the specification of the instant application.

Despite Applicants repeatedly pointing out this explicit support in prior responses, the Examiner has continued to maintain the objections and rejections. As the reason for doing this, the Examiner asserts on page 7 of the above-identified Final Office Action that "the crux of the claimed invention has to be based on the description in the Disclosure as a whole, not just an example or variance thereof..." Applicants respectfully submit that this statement of the Examiner's represents clear legal error.

According to 35 U.S.C. §112, first paragraph, "[t]he specification shall contain a written description of the invention..." There is no exception in this statute stating that examples are

not sufficient enough to qualify as written description. Moreover, as noted in MPEP §2163.II.A.2, “the examiner should review the claims and the **entire specification**, including the specific embodiments, figures, and sequence listings, to understand how applicant provides support for the various features of the claimed invention” (emphasis added). Examples, which are important constituents of the specification, should not be treated differently than other parts, such as the summary or embodiments. All are of same weight in supporting the claims. In other words, an explicit example is enough to satisfy §112, first paragraph.

Accordingly, Applicants respectfully submit that Examiner’s objections and rejections contain clear error. Claims 11 and 21 recite in substance the same limitation as claim 1. And claims 2-10, 12-20, 22-24 depend on claims 1, 11 and 21, respectively. Thus, for at least above stated reasons, Examiner’s rejections of claims 2-24 are clearly-erroneous.

Claims 1-6, 8-16, and 18-24 stand rejected under 35 USC §102(e) as being anticipated by US Patent No. 6,993,657 issued to Renner et al. (hereinafter Renner). Rejections under 35 USC §102 require that the cited references disclose, expressly or inherently all elements of the rejected claims. The Examiner asserts that Renner teaches all elements of claims 1-6, 8-16, and 18-24. But Applicants submit that Examiner’s rejections contain at least one clearly erroneous factual and legal error.

Claim 1 is taken as a representative. The Examiner, in item 6 on page 8 of the above-identified Final Office Action, cites 3 pairs of XSLT lines from Table 4 of Renner as reading on the first and second data processing cell specifications: lines 33 and 36, lines 39 represent the first group of cells and 34, and lines 37 and 40 represent the second. However, the so-called second cell specifications in line 34, 37 and 40 are located within the scope of the first cells specifications in line 33, 36 and 39 respectively. This means that the relationship between the first and second cell specifications in Renner cited by Examiner is nested and simply cannot read on claim 1.

Table 4 in Renner does show some data processing cell specifications unnested with respect to each other. However, none of these cells are specified in such a way that a first of the

cells, specified in a manner to be analyzed before a second of the cells, has a data dependency on the second cell, as is recited in claim 1. Among the Table 4 elements in Renner, the cell to be analyzed first will be always processed/executed first as well. Also, it will be a redundant action for Renner to determine the execution order because it is always the same as the order of analysis.

Thus, for at least these reasons, Applicants submit that Examiner fails to reference a teaching in Renner of all elements of claim 1. As such, Examiner's rejection of claim 1 is clearly erroneous.

Claims 11 and 21 contain in substance the same limitation as claim 1. And claims 2-6, 8-10, 12-16, 18-20, and 22-24 depend on claims 1, 11 and 21, respectively. Thus, for at least these same reasons, Examiner's rejections of claims 2-6, 8-10, 12-16, 18-20 and 22-24 are clearly erroneous.

#### Conclusion

Applicants submit that the legal and factual bases for Examiner's rejections are clearly erroneous. As such, a notice-of-allowance is respectfully requested. Alternatively, Applicants request that prosecution on the merits reopen.

If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

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